

THE NORWEGIAN STEAMSHIP "HASSEL"

FEBRUARY 5, 1925.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. TEMPLE, from the Committee on Foreign Affairs, submitted the following

REPORT

[To accompany S. 2718]

The Committee on Foreign Affairs, to which was referred S. 2718, a bill to authorize the payment of an indemnity to the Government of Norway, on account of losses sustained by the owners of the Norwegian steamship *Hassel* as the result of a collision between that steamship and the American steamship *Ausable*, reports the same and recommends that the bill do pass.

The bill has the indorsement of the President, the Secretary of State, and the Acting Director of the Budget, as set forth in the following communications:

To the Congress of the United States:

I transmit herewith a report from the Secretary of State in relation to a claim presented by the Government of Norway against the Government of the United States on account of the losses sustained by the owners of the Norwegian steamship *Hassel* in a collision between it and the American steamship *Ausable* which, at the time of the collision, was being operated by the War Department, and I recommend that an appropriation be made to effect a settlement of this claim in accordance with the recommendation of the Secretary of State.

CALVIN COOLIDGE.

THE WHITE HOUSE,
February 23, 1924.

THE PRESIDENT:

I have the honor to bring to your attention the claim presented by the Norwegian Legation at this capital, on account of the losses sustained by the owners of the Norwegian steamship *Hassel* in a collision between it and the American steamship *Ausable*, which had been requisitioned by the Government of the United States and, at the time of the collision, was being operated by the War Department in the Army transport service.

The facts of the case briefly stated appear to be substantially as follows:

On August 24, 1918, the American vessel, the *Ausable*, arrived in convoy in Verdon Roads, near the Gironde River, France. The Norwegian vessel, the *Hassel*, was then lying at anchor in the roads. The American vessel with pilot

aboard was proceeding to anchorage astern of the *Hassel*, when, on account, it stated, of the failure of the vessel's steering gear properly to function, it collided with the *Hassel* causing considerable damage to the latter vessel. The Secretary of War in relating the circumstances of the accident states:

"The tide was flood, running about $2\frac{1}{2}$ knots, and the weather fine and clear, with a light westerly wind. At the time the vessel's steering gear failed to function the ship was on a course about southwest and headed toward the steamship *Hassel*, then lying at anchor broadside to, at a distance of about 200 yards. The failure of the steering gear occurred at 5.50 p. m. The engines were stopped and the signal 'full speed astern' given at 5.52 p. m. According to statements of the ship's officers, the vessel's engines appeared to work slowly and had no marked effect in arresting the ship's headway. Both anchors were let go at 5.53, at a distance of 100 yards from the *Hassel*, when it was found that the engines were not enough to check the vessel's forward motion. The *Ausable* came into collision with the *Hassel* at 5.55 p. m., striking that ship amidships in the coal bunkers on the starboard side. No warning signals were given by either vessel. It appears, therefore, that the cause of the collision was primarily due to the failures of the steering gear to function, with a further failure of the *Ausable's* engine as a contributing cause."

After the *Ausable* had been released from requisition and returned to the owners, the owners of the *Hassel* filed a libel against the *Ausable* early in September, 1919, at Cardiff, Wales, where it had put in for bunker purposes. The vessel was released under a bond furnished by this Government in the amount of \$150,000, which represented the maximum amount recoverable under British law. As the damages claimed to have been suffered totaled approximately \$300,000, and as the limit of recovery in the British tribunal was \$150,000, the owners of the *Hassel* subsequently filed a second libel in the United States district court at Norfolk, Va.

The proceedings at Norfolk were dismissed at the instance of the Department of Justice on the basis of the decision of the Supreme Court in the *Western Maid* group of cases, which held in effect that a vessel could not be held liable in the hands of private owners for acts committed while under Government control.

On July 12, 1922, the British court of appeals rendered a decision in the case of the *Tervale*, in which was enunciated the same theory of law as expressed by the Supreme Court in the *Western Maid* group of cases. Later the libel proceedings filed at Cardiff, Wales, were discontinued by counsel for the plaintiffs.

Following the failure of the Norwegian owners to bring about an adjudication of the case in the courts, the matter was presented to the department through diplomatic channels in the form of a claim for \$297,410.90, later increased by the addition of interest to \$373,189.52.

It seems to be generally recognized in international practice that, notwithstanding the immunity of public vessels from the judicial remedies usually obtaining with respect to other vessels, a government should make reparation for the damages done the nationals of other countries by its public vessels. The *Ausable* apparently was responsible for the collision in this case. The Shipping Board has informed the department that according to its records that vessel was solely at fault. There would seem to be no question regarding this when it is considered that the *Ausable* was under way while the *Hassel* was lying at anchor. It is, therefore, apparent that the owners of the Norwegian vessel are entitled to reimbursement on account of such losses as are properly chargeable to the collision.

The claim, as presented by the Norwegian Government, amounted, as stated above, to \$297,410.90, which was later increased by the addition of interest to \$373,189.52. Of the sum of \$297,410.90 claimed, \$61,958.09 was for the cost of repairs to the *Hassel* and the other expenses incidental to the collision, and the sum of \$235,452.81 was for demurrage during the period of repairs. The vessel at the time of the accident was under charter to the French Government at a rate of approximately \$443 per day.

The War Department, to which the matter was referred, recommended the allowance of \$164,169.23—\$46,132.57 repairs and \$118,036.66 for demurrage.

The Norwegian Government has indicated its willingness to accept this amount in full settlement of the claim.

As the American vessel, the *Ausable*, apparently was responsible for the collision between it and the *Hassel*, and as the sum recommended by the Secretary of War appears to be a conservative estimate of the provable damages which this Government should bear, I have the honor to recommend that the Congress be requested to award to the Norwegian Government, as an act of grace and with-

out reference to the question of the legal liability of the United States, the sum of \$164,169.23 on account of the losses sustained by its nationals in this case.

It will be noted from the inclosed communication from the Director of the Budget, to whom the matter was referred, that the proposed action is not inconsistent with the financial program of this Government.

Since the essential facts regarding the claim are embodied in this communication, it is deemed unnecessary to accompany it with copies of the correspondence in the case. All or any part of that correspondence will, of course, be furnished should you or the Congress so desire.

Respectfully submitted.

CHARLES E. HUGHES.

DEPARTMENT OF STATE,

Washington, February 21, 1924.

BUREAU OF THE BUDGET,

Washington, February 20, 1924.

MY DEAR MR. SECRETARY: I have your letter of February 19, 1924, inclosing a copy of a proposed report to the President recommending that Congress be requested to authorize an appropriation for the payment of a claim presented by the Government of Norway against the United States for compensation for the losses sustained by the owners of the Norwegian steamship *Hassel* in a collision between it and the American steamship *Ausable*, which had been requisitioned by the Government of the United States and at the time of the collision was being operated by the War Department in the Army Transport Service, and asking whether the proposed action is in harmony with the financial policy of the President.

It gives me pleasure to advise you that the proposed legislation authorizing an appropriation for the purpose stated is not in conflict with the financial program of the President.

Sincerely yours,

R. O. KLOEBER, *Acting Director.*

The SECRETARY OF STATE.

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